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NORTHERN DISTRICT OF CALIFORNIA

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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 San Francisco Division

13 FEDERAL TRADE COMMISSION,
14 Plaintiff,

15 v.

16 WELLNESS SUPPORT NETWORK,
17 INC., a corporation,

18 ROBERT HELD, individually and as
an officer of Wellness Support
Network, Inc., and

19 ROBYN HELD, individually and as
20 an officer of Wellness Support
Network, Inc.,

21 Defendants.

CV 10 4879

Case No.: _____

JCS

COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF

25 Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint
26 alleges:

27 1. The FTC brings this action under Section 13(b) of the Federal Trade
28 Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain permanent injunctive
Complaint

relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants' acts or practices in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, in connection with the advertising, marketing, and sale of two dietary supplements that they claim prevent, treat, or ameliorate the symptoms of diabetes: WSN® Diabetic Pack ("Diabetic Pack") and WSN® Insulin Resistance Pack ("Insulin Resistance Pack").

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a) and 1345, and 15 U.S.C. §§ 45(a), 52, and 53(b).

3. Venue in the United States District Court for the Northern District of California is proper under 28 U.S.C. §§ 1391(b) and (c) and 15 U.S.C. § 53(b).

INTRADISTRICT ASSIGNMENT

4. Defendants have advertised and sold their products in the County of San Francisco.

THE PARTIES

5. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, which prohibit, respectively, unfair or deceptive acts or practices and false advertisements for food, drugs, devices, services, or cosmetics in or affecting commerce. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act, and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. § 53(b).

6. Defendant Wellness Support Network (“WSN”) is a closely held California corporation with its principal place of business at 620 N. Brand Blvd.,

1 Ste. 400, Glendale, CA 91203. At times material to this Complaint, WSN has
2 advertised, marketed, distributed, or sold a variety of dietary supplements,
3 including the Diabetic Pack and Insulin Resistance Pack to consumers throughout
4 the United States. WSN transacts, or has transacted, business in this District and
5 throughout the United States.

6 7. Defendant Robert Held is, or at times material to this Complaint has
7 been, the President and an owner of WSN. At times material to this Complaint,
8 acting individually or in concert with others, Robert Held has formulated,
9 directed, controlled, had the authority to control, or participated in the policies,
10 acts, or practices of WSN, including the acts or practices alleged in this
11 complaint. Among other things, in conjunction with Defendant Robyn Held,
12 Defendant Robert Held has participated in the advertising and marketing of
13 products for Defendant Wellness Support Network. Robert Held transacts, or has
14 transacted, business in this District and throughout the United States.

15 8. Defendant Robyn Held is, or at times material to this Complaint has
16 been, an officer of WSN. At times material to this Complaint, acting alone or in
17 concert with others, Robyn Held has formulated, directed, controlled, had the
18 authority to control, or participated in the policies, acts, or practices of WSN,
19 including the acts or practices alleged in this complaint. Among other things, in
20 conjunction with Defendant Robert Held, Defendant Robyn Held has participated
21 in the advertising and marketing of products for Defendant Wellness Support
22 Network. Robyn Held transacts, or has transacted, business in this District and
23 throughout the United States.

24 **COMMERCE**

25 9. At all times material to this Complaint, Defendants have maintained
26 a substantial course of trade in or affecting commerce, as "commerce" is defined
27 in Section 4 of the FTC Act, 15 U.S.C. § 44.

28 //

DEFENDANTS' PRODUCTS

The WSN® Diabetic Pack

10. Since at least 2004, and continuing thereafter, Defendants WSN, Robert Held, and Robyn Held (collectively, "Defendants") have advertised, promoted, offered for sale, sold, or distributed a group of dietary supplements called the WSN® Diabetic Pack to consumers throughout the United States.

11. The Diabetic Pack consists of three different products: (1) Glucose Support Formula; (2) Calcium-Magnesium Formula; and (3) Vitamin & Mineral Formula.

12. The Glucose Support Formula purportedly contains a variety of dietary ingredients, including Vitamin A, Vitamin D, biotin, chromium, vanadium, and banaba leaf extract. Users are instructed to take three capsules of the Glucose Support Formula each day.

13. The Calcium-Magnesium Formula purportedly contains Vitamin D, calcium, magnesium, and other ingredients. Users are instructed to take one capsule of the Calcium-Magnesium Formula per day.

14. The Vitamin & Mineral Formula purportedly contains a variety of vitamins, minerals and other ingredients. Users are instructed to take one capsule of the Vitamin & Mineral Formula per day.

15. The suggested retail price for the Diabetic Pack is \$76.70 for a 30-day supply.

The WSN® Insulin Resistance Pack

16. Since at least 2004, and continuing thereafter, Defendants have advertised, promoted, offered for sale, sold, or distributed the WSN® Insulin Resistance Pack to consumers throughout the United States.

17. Insulin resistance is a condition in which a person's body produces insulin, but does not use it properly. Insulin resistance can increase the chance of developing Type 2 diabetes and heart disease.

1 18. The Insulin Resistance Pack is comprised of the same three products
 2 that are in the Diabetic Pack: (1) the Glucose Support Formula; (2) the Calcium-
 3 Magnesium Formula; and (3) the Vitamin & Mineral Formula. Users are
 4 instructed to take three capsules of the Glucose Support Formula per day, and to
 5 take one capsule each of the Calcium-Magnesium Formula and the Vitamin &
 6 Mineral Formula per day.

7 19. The suggested retail price for the Insulin Resistance Pack is
 8 \$76.70 for a 30-day supply.

9 DEFENDANTS' COURSE OF CONDUCT

10 The Diabetic Pack

11 20. To induce consumers to purchase their Diabetic Pack, Defendants
 12 have created, prepared, disseminated, or caused to be disseminated,
 13 advertisements and other marketing materials, including, but not limited to, the
 14 attached Exhibits A (excerpts from website of June 8, 2009) and B (excerpts from
 15 website of June 14, 2010). These promotional materials contain, among other
 16 things, the following statements:

- 17
- 18 a. **Completely Natural!**
 Diabetes Breakthrough

19 * * *

20 Lower your blood sugar, safely and effectively
 21 with absolutely *NO SIDE EFFECTS !! GUARANTEED !!*

22 Exhibit ("Ex.") A, p. 1 (Excerpt from website)

- 23 b. **Completely Natural!**
 Diabetes Breakthrough

24 * * *

25 Maintain normal blood sugar levels, safely and effectively
 26 with absolutely *NO SIDE EFFECTS !! GUARANTEED !!*

27 Ex. B, p. 1 (Excerpt from website)

- 28 c. Nobel Prize winning technology validates WSN® Diabetic
 Complaint

1 Pack ingredients!
2 Studies show a **31.9%** drop in blood sugar levels!

3 Ex. A, p. 1 (Excerpt from website)

4 **Include:** d. **The WSN® Diabetic Pack Breakthrough Benefits***

- 5 ✓ Lower Blood Glucose Levels
6 ✓ Higher Energy Levels
7 ✓ Easier Weight Loss
8 ✓ Lower Cholesterol Levels
✓ Higher Quality of Sleep
✓ Less Dependency on Medications

9 Ex. A, p. 2 (Excerpt from website)

10 e. **The WSN® Diabetic Pack Breakthrough Benefits Include:**

- 11 ✓ Helps Maintain Normal Blood Glucose Levels
12 ✓ Higher Energy Levels
✓ Lose Weight More Easily
✓ Helps Maintain Lower Cholesterol Levels
✓ Higher Quality of Sleep

13 Ex. B, p. 2 (Excerpt from website)

14 f. The WSN® Diabetic Pack also contains important botanical
15 extracts. A recent independent clinical trial was done on one
16 of these herbal ingredients from this amazing product. This
17 study was done on type 2 diabetics (mildly insulin dependent)
and reported **an average drop of blood glucose levels of
31.9% and average weight loss of 4.8 pounds in just 30
days!**

18 Ex. A, p. 2 (Excerpt from website)

19 g. **Nobel Prize Winning Technology**
20 Validates WSN® Diabetic Pack Ingredients!

21 The good news is that cutting-edge science and nutrition have
22 come together to create a truly monumental and natural
breakthrough for diabetics.

23 Nobel Prize winning science and over 60 independent
24 American university studies confirm the superiority of
Foodform® [Diabetic Pack] nutrients.

25 The reason the WSN® Diabetic Pack works is because it
26 operates at the cellular level and addresses a key problem that
27 every type 2 diabetic has. . . All type 2 diabetics have a
deficiency of key nutrients the body needs to support healthy
blood sugar levels. Your cells simply do not process blood
sugar like they should. The WSN® Diabetic Pack helps your
body metabolize blood sugar more efficiently.

1 Ex. B, pp. 2-4 (Excerpt from website)

- 2 h. “**My blood sugar went from 230 to 117 in just 21**
3 **days.**” James Marshall, Georgia

5 Ex. A, p. 1 (Excerpt from website)
6 Ex. B, p. 1 (Excerpt from website)

- 7 i. **From Barbara Culver in Michigan**
8 “Well, just let me tell you this. This is the first time that I
9 have ever ordered a product that really did what it said it
10 would do!
- 11 “I was taking 50 units of insulin plus pills twice a day and my
12 blood sugar just kept going up. I was tired all of the time and
13 could fall asleep as soon as I sat down. I also kept gaining
14 weight.
- 15 “Since I've been using the Diabetic Pack I have lost 9 pounds,
16 I have all kinds of energy and my sugar is down in the low
17 100s. Also I don't take insulin any more!”
- 18 Ex. B, pp. 3-4; Ex. A contains similar statements (Excerpt
19 from website)

15 **The Insulin Resistance Pack**

16 21. To induce consumers to purchase their Insulin Resistance Pack,
17 Defendants have created, prepared, disseminated, or caused to be disseminated,
18 advertisements and other marketing materials, including, but not limited to, the
19 attached Exhibit C (excerpt from website of June 14, 2010). These promotional
20 materials contain, among other things, the following statements:

- 21 a. **Completely Natural!**
22 **Insulin Resistance Breakthrough**
23 (Also known as “Metabolic Syndrome” or “Syndrome X”)
24 The WSN® Insulin Resistance Pack is a medical food
25 specifically formulated for the dietary management of insulin
26 resistance.
27 Reverse Insulin Resistance, safely and effectively with
28 absolutely *NO SIDE EFFECTS !! GUARANTEED !!*
 Ex. C, p. 1 (Excerpt from website)

- 1 b. Nobel Prize winning technology validates WSN® Insulin
2 Resistance Pack ingredients!

3 **The WSN® Insulin Resistance Pack Breakthrough
4 Benefits* Include:**

- 5 ✓ **Reduced Insulin Resistance**
6 ✓ **Improved Utilization of Glucose**
7 ✓ **Higher Energy Levels**
8 ✓ **Easier Weight Loss**
9 ✓ **Lower Cholesterol Levels**
10 ✓ **Higher Quality of Sleep**
11 ✓ **Helps Prevent Diabetes**

12 Ex. C, p. 1 (Excerpt from website)

- 13 c. The WSN® Insulin Resistance Pack also contains important
14 botanical extracts. A recent independent clinical trial was
15 done on one of these herbal ingredients from this amazing
16 product. This study was done on type 2 diabetics (mildly
17 insulin dependent) and reported **an average drop of blood
18 glucose levels of 31.9% and average weight loss of 4.8
19 pounds in just 30 days!**

20 Ex. C, p. 2 (Excerpt from website)

- 21 d. Insulin resistance is a condition that if you don't take effective
22 action against, it simply gets worse, and becomes type 2
23 diabetes. Unfortunately, medications only treat the symptoms
24 and usually do nothing to address the underlying causes. The
25 good news is that cutting-edge science and nutrition have
26 come together to create a truly monumental and natural
27 breakthrough for people who are **insulin resistant**.

28 **Nobel Prize Validates Amazing Technology**

19 Nobel Prize winning science and over 60 independent
20 American university studies confirm the superiority of
21 Foodform® [Insulin Resistance Pack] technology . . . Your
22 cells are insensitive to insulin and simply do not process blood
23 sugar like they should, and the WSN® Insulin Resistance
24 Pack helps your body metabolize blood sugar more
25 efficiently.

26 Ex. C., p. 2 (Excerpt from website)

- 27 e. The WSN® Insulin Resistance Pack is the most
28 technologically advanced product of its kind available
 anywhere and was validated by the 1999 Nobel Prize for
 physiology.

29 Ex. C, p. 3 (Excerpt from website)

30 **DEFENDANTS' VIOLATIONS OF THE FTC ACT**

- 31 22. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or
32 Complaint

1 deceptive acts or practices in or affecting commerce.” Section 12(a) of the FTC
2 Act, 15 U.S.C. § 52(a), prohibits the dissemination of any false advertisement in
3 or affecting commerce for the purposes of inducing, or which is likely to induce,
4 the purchase of food, drugs, devices, services, or cosmetics.

5 23. For the purposes of Section 12 of the FTC Act, 15 U.S.C. § 52,
6 Defendants’ products are either “foods” or “drugs,” as “food” and “drug” are
7 defined in Section 15(b) and (c) of the FTC Act, 15 U.S.C. § 55(b), (c).

8 **COUNT ONE**

9 **Deceptive Claims for Diabetic Pack**

10 24. Through the means described in Paragraph 20, including the
11 statements and depictions contained in the advertisements attached as Exhibits A
12 and B, among others, Defendants have represented, directly or indirectly,
13 expressly or by implication, that:

- 14 a. Diabetic Pack is an effective treatment for diabetes;
- 15 b. Diabetic Pack reduces or eliminates the need for insulin and
16 other diabetes medications;
- 17 c. Scientific studies prove that Diabetic Pack is an effective
18 treatment for diabetes; and
- 19 d. Diabetic Pack is clinically proven to cause an average drop in
20 blood glucose levels of 31.9%.

21 25. The representations set forth in Paragraph 24 are false or were not
22 substantiated at the time they were made. Therefore, the making of the
23 representations set forth in Paragraph 24 constitutes a deceptive act or practice,
24 and the making of false advertisements, in or affecting commerce, in violation of
25 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

26 **COUNT TWO**

27 **Deceptive Claims for Insulin Resistance Pack**

28 26. Through the means described in Paragraph 21, including the
Complaint

1 statements and depictions contained in the advertisement attached as Exhibit C,
2 among others, Defendants have represented, directly or indirectly, expressly or
3 by implication, that:

- 4 a. Insulin Resistance Pack reverses insulin resistance;
- 5 b. Insulin Resistance Pack manages insulin resistance;
- 6 c. Insulin Resistance Pack prevents diabetes;
- 7 d. Scientific studies prove that Insulin Resistance Pack is an
effective treatment for insulin resistance; and
- 8 e. Insulin Resistance Pack is clinically proven to cause an
average drop in blood glucose levels of 31.9%.

9
10
11 27. The representations set forth in Paragraph 26 are false or were not
12 substantiated at the time they were made. Therefore, the making of the
13 representations set forth in Paragraph 26 constitutes a deceptive act or practice,
14 and the making of false advertisements, in or affecting commerce, in violation of
15 Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

16 CONSUMER INJURY

17 28. Consumers have suffered and will continue to suffer substantial
18 injury as a result of Defendants' violations of the FTC Act. In addition,
19 Defendants have been unjustly enriched as a result of their unlawful acts or
20 practices. Absent injunctive relief by this Court, Defendants are likely to
21 continue to injure consumers, reap unjust enrichment, and harm the public
22 interest.

23 THIS COURT'S POWER TO GRANT RELIEF

24 29. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this
25 Court to grant injunctive and such other relief as the Court may deem appropriate
26 to halt and redress violations of any provision of law enforced by the FTC. The
27 Court, in the exercise of its equitable jurisdiction, may award ancillary relief,
28 including rescission or reformation of contracts, restitution, the refund of monies

1 paid, and the disgorgement of ill-gotten monies, to prevent and remedy any
2 violation of any provision of law enforced by the FTC.

3 **PRAAYER FOR RELIEF**

4 WHEREFORE, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act,
5 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

6 (a) Enter a permanent injunction to prevent future violations of the FTC
7 Act by Defendants;

8 (b) Award such relief as the Court finds necessary to redress injury to
9 consumers resulting from Defendants' violations of the FTC Act, including, but
10 not limited to, rescission or reformation of contracts, restitution, the refund of
11 monies paid, and the disgorgement of ill-gotten monies; and

12 (c) Award Plaintiff the costs of bringing this action, as well as such
13 other and additional relief as the Court may determine to be just and proper.

14
15 Dated: 10/27/10

Respectfully Submitted,

16 WILLARD K. TOM
17 General Counsel

18 
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